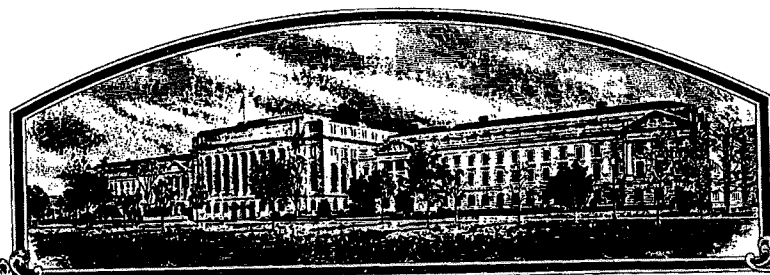


No.

200500069



# THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pioneer Hi-Bred International, Inc.

Whereas, THERE HAS BEEN PRESENTED TO THE

Secretary of Agriculture

AN APPLICATION REQUESTING A CERTIFICATE OF PROTECTION FOR AN ALLEGED DISTINCT VARIETY OF SEXUALLY REPRODUCED, OR TUBER PROPAGATED PLANT, THE NAME AND DESCRIPTION OF WHICH ARE CONTAINED IN THE APPLICATION AND EXHIBITS, A COPY OF WHICH IS HEREUNTO ANNEXED AND MADE A PART HEREOF, AND THE VARIOUS REQUIREMENTS OF LAW IN SUCH CASES MADE AND PROVIDED HAVE BEEN COMPLIED WITH, AND THE TITLE THERETO IS, FROM THE RECORDS OF THE PLANT VARIETY PROTECTION OFFICE, IN THE APPLICANT(S) INDICATED IN THE SAID COPY, AND WHEREAS, UPON DUE EXAMINATION MADE, THE SAID APPLICANT(S) IS (ARE) ADJUDGED TO BE ENTITLED TO A CERTIFICATE OF PLANT VARIETY PROTECTION UNDER THE LAW.

NOW, THEREFORE, THIS CERTIFICATE OF PLANT VARIETY PROTECTION IS TO GRANT UNTO THE SAID APPLICANT(S) AND THE SUCCESSORS, HEIRS OR ASSIGNS OF THE SAID APPLICANT(S) FOR THE TERM OF TWENTY YEARS FROM THE DATE OF THIS GRANT, SUBJECT TO THE PAYMENT OF THE REQUIRED FEES AND PERIODIC REPLENISHMENT OF VIABLE BASIC SEED OF THE VARIETY IN A PUBLIC REPOSITORY AS PROVIDED BY LAW, THE RIGHT TO EXCLUDE OTHERS FROM SELLING THE VARIETY, OR OFFERING IT FOR SALE, OR REPRODUCING IT, OR IMPORTING IT, OR EXPORTING IT, OR CONDITIONING IT FOR PROPAGATION, OR STOCKING IT FOR ANY OF THE ABOVE PURPOSE . OR CONDITIONING IT FOR PROPAGATION, OR STOCKING IT FOR ANY OF THE ABOVE OR USING IT IN PRODUCING A HYBRID OR DIFFERENT VARIETY THEREFROM, TO THE EXTENT PROVIDED BY THE PLANT VARIETY PROTECTION ACT. (84 STAT. 1542, AS AMENDED, 7 U.S.C. 2321 ET SEQ.)

SOYBEAN

'90M61'



In Testimony Whereof, I have hereunto set my hand and caused the seal of the Plant Variety Protection Office to be affixed at the City of Washington, D.C. this fifteenth day of June, in the year two thousand and five.

Attest:

*Mark B. ...*

*Will Johnson*

REPRODUCE LOCALLY. Include form number and date on all reproductions

Form Approved - OMB No. 0581-0055

U.S. DEPARTMENT OF AGRICULTURE  
AGRICULTURAL MARKETING SERVICE  
SCIENCE AND TECHNOLOGY - PLANT VARIETY PROTECTION OFFICE

**APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICATE**  
(Instructions and information collection burden statement on reverse)

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552a) and the Paperwork Reduction Act (PRA) of 1995.

Application is required in order to determine if a plant variety protection certificate is to be issued (7 U.S.C. 2421). Information is held confidential until certificate is issued (7 U.S.C. 2426).

<b>1. NAME OF OWNER</b> Pioneer Hi-Bred International, Inc.		<b>2. TEMPORARY DESIGNATION OR EXPERIMENTAL NAME</b> XB06H04		<b>3. VARIETY NAME</b> 90M61	
<b>4. ADDRESS</b> (Street and No., or R.F.D. No., City, State, and ZIP Code, and Country) 7300 N.W. 52 <sup>nd</sup> Avenue P.O. Box 1004 Johnston, IA 50131		<b>5. TELEPHONE</b> (include area code) 515-254-2638		<b>6. FAX</b> (include area code) 515-253-2478	
<b>7. IF THE OWNER NAMED IS NOT A "PERSON", GIVE FORM OF ORGANIZATION</b> (corporation, partnership, association, etc.) Corporate		<b>8. IF INCORPORATED, GIVE STATE OF INCORPORATION</b> Iowa		<b>9. DATE OF INCORPORATION</b> May 6, 1926	
<b>10. NAME AND ADDRESS OF OWNER REPRESENTATIVE(S) TO SERVE IN THIS APPLICATION.</b> (First person listed will receive all papers)  <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;">           Darla Schmidt, Ph.D. 7300 N.W. 52<sup>nd</sup> Avenue P.O. Box 1004 Johnston, IA 50131-1004         </div> <div style="width: 45%;">           Steve Callistein, Esq. 7100 N.W. 52<sup>nd</sup> Avenue P.O. Box 1000 Johnston, IA 50131-1000         </div> </div>				<b>FILING AND EXAMINATION FEES:</b> \$3,652.00  <b>DATE</b> 1/18/2005  <b>CERTIFICATION FEE:</b> \$432  <b>DATE</b> 5/11/2005	
<b>11. TELEPHONE</b> (include area code) 515-254-2638		<b>12. FAX</b> (include area code) 515-253-2478		<b>13. E-MAIL</b> darla.schmidt@pioneer.com	
<b>14. CROP KIND</b> (Common Name) Soybean					

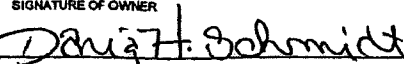
  

<b>16. CHECK APPROPRIATE BOX FOR EACH ATTACHMENT SUBMITTED</b> (Follow instructions on reverse) a. <input type="checkbox"/> X Exhibit A. Origin and Breeding History of the Variety b. <input type="checkbox"/> X Exhibit B. Statement of Distinctness c. <input type="checkbox"/> X Exhibit C. Objective Description of Variety d. <input type="checkbox"/> X Exhibit D. Additional Description of the Variety (Optional) e. <input type="checkbox"/> X Exhibit E. Statement of the Basis of the Owner's Ownership f. <input type="checkbox"/> X Voucher Sample (2,500 viable untreated seeds or, for tuber propagated varieties, verification that tissue culture will be deposited and maintained in an approved public repository) g. <input type="checkbox"/> X Filing and Examination Fee (\$2,705), made payable to "Treasurer of the United States" (Mail to the Plant Variety Protection Office)	<b>19. DOES THE OWNER SPECIFY THAT SEED OF THIS VARIETY BE SOLD AS A CLASS OF CERTIFIED SEED?</b> See Section 83(a) of the Plant Variety Protection Act <input type="checkbox"/> YES (If "yes", answer Items 20 and 21 below) <input type="checkbox"/> X NO (If "no," go to Item 22)
	<b>20. DOES THE OWNER SPECIFY THAT SEED OF THIS VARIETY BE LIMITED AS TO NUMBER OF CLASSES?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO IF YES, WHICH CLASSES? <input type="checkbox"/> FOUNDATION <input type="checkbox"/> REGISTERED <input type="checkbox"/> CERTIFIED
	<b>21. DOES THE OWNER SPECIFY THAT THE CLASSES BE LIMITED AS TO NUMBER OF GENERATIONS?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO IF YES, SPECIFY THE NUMBER 1, 2, 3, etc. <input type="checkbox"/> FOUNDATION <input type="checkbox"/> REGISTERED <input type="checkbox"/> CERTIFIED (If additional explanation is necessary, please use the space indicated on the reverse.)
<b>22. HAS THE VARIETY (INCLUDING ANY HARVESTED MATERIAL) OR A HYBRID PRODUCED FROM THIS VARIETY BEEN SOLD, DISPOSED OF, TRANSFERRED, OR USED IN THE U. S. OR OTHER COUNTRIES?</b> <input type="checkbox"/> YES <input type="checkbox"/> X NO IF YES, YOU MUST PROVIDE THE DATE OF FIRST SALE, DISPOSITION, TRANSFER, OR USE FOR EACH COUNTRY AND THE CIRCUMSTANCES. (Please use space indicated on reverse.)	<b>23. IS THE VARIETY OR ANY COMPONENT OF THE VARIETY PROTECTED BY INTELLECTUAL PROPERTY RIGHT (PLANT BREEDER'S RIGHT OR PATENT)?</b> <input type="checkbox"/> X YES <input type="checkbox"/> NO IF YES, GIVE COUNTRY, DATE OF FILING OR ISSUANCE AND ASSIGNED REFERENCE NUMBER. (Please use space indicated on reverse.)

24. The owners declare that a viable sample of basic seed of the variety will be furnished with application and will be replenished upon request in accordance with such regulations as may be applicable, or for a tuber propagated variety a tissue culture will be deposited in a public repository and maintained for the duration of the certificate.

The undersigned owner(s) is(are) the owner of this sexually reproduced or tuber propagated plant variety, and believe(s) that the variety is new, distinct, uniform, and stable as required in Section 42, and is entitled to protection under the provisions of Section 42 of the Plant Variety Protection Act.

Owner(s) is(are) informed that false representation herein can jeopardize protection and result in penalties.

<b>SIGNATURE OF OWNER</b>  <b>NAME</b> (Please print or type) Darla H. Schmidt	<b>SIGNATURE OF OWNER</b>  <b>NAME</b> (Please print or type)
<b>CAPACITY OR TITLE</b> Director, Technology Integration and Associative Genetics	<b>DATE</b> 1-17-2005
<b>CAPACITY OR TITLE</b>	<b>DATE</b>

## INSTRUCTIONS

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**GENERAL:** To be effectively filed with the Plant Variety Protection Office (PVPO), ALL of the following items must be received in the PVPO: (1) Completed application form signed by the owner; (2) completed exhibits A, B, C, E; (3) for a seed reproduced variety at least 2,500 viable untreated seeds, for a hybrid variety at least 2,500 untreated seeds of each line necessary to reproduce the variety, or for tuber reproduced varieties verification that a viable (in the sense that it will reproduce an entire plant) tissue culture will be deposited and maintained in an approved public repository; (4) check drawn on a U.S. bank for \$2,705 (\$320 filing fee and \$2,385 examination fee), payable to "Treasurer of the United States" (See Section 97.6 of the Regulations and Rules of Practice.) Partial applications will be held in the PVPO for not more than 90 days, then returned to the applicant as unfilled. Mail application and other requirements to Plant Variety Protection Office, AMS, USDA, Room 500, NAL Building, 10301 Baltimore Avenue, Beltsville, MD 20705-2351. Retain one copy for your files. All items on the face of the application are self explanatory unless noted below. Corrections on the application form and exhibits must be initialed and dated. **DO NOT** use masking materials to make corrections. If a certificate is allowed, you will be requested to send a check payable to "Treasurer of the United States" in the amount of \$320 for issuance of the certificate. Certificates will be issued to owner, not licensee or agent.

Plant Variety Protection Office

Telephone: (301) 504-5518

FAX: (301) 504-5291

Homepage: <http://www.ams.usda.gov/science/pvpo/pvp.htm>

## ITEM

- 8a. Give:
- (1) the genealogy, including public and commercial varieties, lines, or clones used, and the breeding method;
  - (2) the details of subsequent stages of selection and multiplication;
  - (3) evidence of uniformity and stability; and
  - (4) the type and frequency of variants during reproduction and multiplication and state how these variants may be identified
- 8b. Give a summary of the variety's distinctness. Clearly state how this application variety may be distinguished from all other varieties in the same crop. If the new variety is most similar to one variety or a group of related varieties:
- (1) Identify these varieties and state all differences objectively;
  - (2) attach statistical data for characters expressed numerically and demonstrate that these are clear differences; and
  - (3) submit, if helpful, seed and plant specimens or photographs (prints) of seed and plant comparisons which clearly indicate distinctness.
- 8c. Exhibit C forms are available from the PVPO Office for most crops; specify crop kind. Fill in Exhibit C (Objective Description of Variety) form as completely as possible to describe your variety.
- 8d. Optional additional characteristics and/or photographs. Describe any additional characteristics that cannot be accurately conveyed in Exhibit C. Use comparative varieties as is necessary to reveal more accurately the characteristics that are difficult to describe, such as plant habit, plant color, disease resistance, etc.
- 8e. Section 52(5) of the Act requires applicants to furnish a statement of the basis of the applicant's ownership. An Exhibit E form is available from the PVPO.
9. If "Yes" is specified (*seed of this variety be sold by variety name only, as a class of certified seed*), the applicant **MAY NOT** reverse this affirmative decision after the variety has been sold and so labeled, the decision published, or the certificate issued. However, if "No" has been specified, the applicant may change the choice. (See Regulations and Rules of Practice, Section 97.103).
11. See Section 83 of the Act for the Contents and Term of Plant Variety Protection.
12. See Sections 41, 42, and 43 of the Act and Section 97.5 of the regulations for eligibility requirements.
13. See Section 5.5 of the Act for instructions on claiming the benefit of an earlier filing date.

1. CONTINUED FROM FRONT (Please provide a statement as to the limitation and sequence of generations that may be certified.)

2. CONTINUED FROM FRONT (Please provide the date of first sale, disposition, transfer, or use for each country and the circumstances, if the variety (including any harvested material) or a hybrid produced from this variety has been sold, disposed of, transferred, or used in the U.S. or other countries.)

3. CONTINUED FROM FRONT (Please give the country, date of filing or issuance, and assigned reference number, if the variety or any component of the variety is protected by intellectual property right (Plant Breeder's Right or Patent).)

U.S. Patent 4,940,835 issued to Shah et al. as per the Roundup Ready Gene in this variety

**NOTES:** It is the responsibility of the applicant/owner to keep the PVPO informed of any changes of address or change of ownership or assignment or owner's representative during the life of the application/certificate. There is no charge for filing a change of address. The fee for filing a change of ownership or assignment or any modification of owner's name is specified in Section 97.175 of the regulations. (See Section 101 of the Act, and Sections 97.130, 97.131, 97.175(h) of the Regulations and Rules of Practice.)

To avoid conflict with other variety names in use, the applicant must check the variety names proposed by contacting: Seed Branch, AMS, USDA, Room 213, Building 306, Beltsville Agricultural Research Center—East, Beltsville, MD 20705. Telephone: (301) 504-8089.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this collection of information is (0181-0045). The time required to complete this information collection is estimated to average 1.4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. Not all prohibited bases apply to all programs. Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact the USDA's TARGET Center at 202-204-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, White House Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.

ST-470 (04-01) designed by the Plant Variety Protection Office with WordPerfect 6.0a. Replaces ST-470 (02-89) which is obsolete.

200500069

**Exhibit A. Origin and Breeding History of the Variety**

**Soybean Variety 90M61**

Variety 90M61 evolved from a cross made in the winter of 1996/1997 in Chile with the following parentage:

9151/92B05\*

\*92B05 is a commercial variety with the Roundup Ready (40-3-2) gene

Variety 90M61 is an F4-derived line which was advanced to the F4 generation by modified single-seed descent. The F4 progeny row of 90M61 was grown in a plant row in the summer of 1999 in Minnesota. Subsequently, 90M61 has undergone five years of extensive testing and purification and has been observed by the breeder to be uniform and stable for all plant traits from generation to generation, with no evidence of variants. On the basis of yield, Phytophthora resistance, and resistance to Roundup labeled herbicides, variety 90M61 was assigned a commercial number.

The purification block was grown during the summer of 2002 in Minnesota and 55 sublines were harvested. An approximately three (3) acre increase was grown in Chile in 2002/03. One hundred twenty-six acres of parent seedstock (foundation seed equivalent) was grown in the summer of 2003. Approximately one thousand eight hundred (1800) acres of parent seedstock and production seed were grown in the summer of 2004.